

OWCP Overview

May 2015

Department of Labor
OWCP-DFEC

Presented By: Jay Mariani
Tara Jones

FECA Overview

- Federal Employees' Compensation Act passed in 1916.
- Provides compensation coverage to approximately three million civilian employees of the US for employment-related injury or disease sustained in the performance of duty.
- Benefits include wage replacement, payment for medical care and, where necessary, medical and vocational rehabilitation assistance in returning to work.
- Provides benefits to dependents if a work-related injury or disease causes death.

FECA Overview

- Administered by the Department of Labor, Office of Workers' Compensation Programs, Division of Federal Employees' Compensation (DFEC).
- The DFEC adjudicates new claims for benefits and manages ongoing cases; pays medical expenses and compensation benefits to injured workers and survivors; and helps injured employees return to work when they are medically able to do so.

FECA Overview

- Over the past 5 years, an average of 119,000 new injury and illness claims were filed annually and processed by OWCP.
- In FY2014, nearly 13,000 claims had a notable disability period
 - 88% return to work within the first year of injury
 - 91% return to work by the end of the second year
 - less than 2% of all new injury cases remain on the long-term compensation rolls after the date of injury
- Currently, roughly 41,000 injured workers receive long-term ongoing disability benefits for partial or total wage loss
- In 2014 over \$2.9 billion in benefits for work-related injuries or illnesses was paid, \$1.8 billion for wage-loss compensation, \$951.3 million for medical and rehabilitation services, and \$113.1 million for survivor benefits.

FECA Overview

- Each district office is headed by a District Director, who is responsible for office functions. In each district office there are two or more Supervisory Claims Examiners, or Claims Managers, who are responsible for the operation of individual claims units.
- The claims units, staffed with Senior Claims Examiners and Claims Examiners, have primary responsibility for issuing decisions and managing the individual claims.

FECA Overview

Below is a breakdown of the 12 DFEC District Offices and jurisdiction:

- District 1 – Boston, MA (CT, ME, MA, NH, RI and VT)
- District 2 – New York, NY (NJ, NY, PR and the VI)
- District 3 – Philadelphia, PA (DE, PA, WV and MD except Prince George CNTY)
- District 6 – Jacksonville, FL (AL, FL, GA, KY, MS, NC, SC and TN)
- District 9 – Cleveland, OH (IN, MI, OH, and all case outside the US and its territories)
- District 10 – Chicago, IL (IL, MN and WI)
- District 11 – Kansas City, MO (AR, IA, KS, MO, NE and DOL employees)
- District 12 – Denver, CO (NM, CO, MT, ND, SD, UT and WY)
- District 13 – San Francisco, CA (AZ, CA, HI and NV)
- District 14 – Seattle, WA (AK, ID, OR and WA)
- District 16 – Dallas, TX (LA, OK and TX)
- District 25 – Washington, DC (MD - residence of Prince George CNTY, VA and DC)

FECA Overview

- Individual cases are protected under the Privacy Act – only the employee, a representative, or agency personnel may routinely have access to information about the compensation claim. The documents that make up the claim file are covered under several systems of records, each with routine uses. DOL owns all records created in connection with the claim – including the ones maintained by the employer.
- HIPAA does not apply to OWCP or employing agencies as it relates to information concerning the compensation claim.

Types of Claims

- Traumatic Injury – one day or work shift
- Occupational Disease – exposure over more than one day or work shift
- Death – either at the time of injury or later resulting from conditions caused by the injury

Conditions of Coverage

- Time
- Civilian Employee
- Fact of Injury
- Performance of Duty
- Causal Relationship

Conditions of Coverage

Performance of Duty

- Injury occurred while performing assigned duties or engaging in an activity reasonably associated with the employment.
- Injury occurred on work premises.
 - Performing assigned duties
 - Personal comfort activities reasonably incidental to employment
 - Coverage extended for a reasonable time before or after work hours.

Conditions of Coverage

Performance of Duty

- Injury occurred off premises while engaging in work activities.
 - Performing assigned duties
 - Engaged in an activity reasonably incidental to the assignment (including personal comfort)
 - No deviation from the assignment for personal reasons

Conditions of Coverage Performance of Duty

- Other factors
 - Recreation
 - Horseplay
 - Assault
 - Harassment or Teasing
 - Idiopathic Falls
 - Emergencies
 - Union Representation

Conditions of Coverage

Statutory Exclusions

- Willful Misconduct – deliberate and intentional disobedience of rules / orders. Not carelessness.
- Drug or Alcohol intoxication – proximately caused the injury.
- Intent to injure self or others – intent must be established.

Conditions of Coverage

Causal Relationship

- Link between work-related exposure/injury and any medical condition found.
- Based on medical evidence provided by physicians who have examined and treated the employee (except in some circumstances – death claims, visible injuries).
- Amount and degree of CR needed will depend on the type of injury.

Traumatic Injury- Form CA-1

- An injury caused by a specific event or series of events or incidents within a single work day or work shift. A traumatic injury is identifiable as to time and place of occurrence and member or function of the body affected.

CA-1

- Must be submitted to employing agency within 30 days of date of injury to be eligible for COP. Not all CA-1 forms are submitted from agency to OWCP – follow the filing instructions on the back of the form.
- If the form should be filed, it must be transmitted to OWCP within 10 work days from the date the agency received notice (not necessarily 10 days from the date that the form was actually signed).

DO NOT HOLD!

CA-1 – Agency Responsibilities

- Review for completeness.
- Authorize medical care.
 - Form CA-16
- Advise employee of the right to elect COP.
- Advise employee of his/her responsibility to submit medical evidence.

Short Form Closures

- Some Traumatic Injury claims are administratively handled to allow payment of up to \$1500 in medical expenses and payment of COP by the agency
- These cases are not reviewed or adjudicated by a claims examiner

Continuation of Pay (COP)

- COP Defined
- Eligibility for COP
- Controverting COP
- Terminating COP
- Calculating COP

COP Defined

- Continuation of regular pay for up to 45 calendar days of wage loss due to disability and/or medical treatment after a traumatic injury
- Intent is to avoid interruption of pay while the claim is adjudicated
- Subject to usual deductions from pay, such as income tax, retirement, allotments, etc.
- Decision to use leave over COP is not irrevocable. Employee who uses leave can later elect COP within one year of the leave usage or date the case is accepted by OWCP, whichever is later.

Continuation of Pay - Eligibility

- Must be a traumatic injury
- Must file the CA-1 (or notice of injury) within 30 days of the date of injury
- Must begin losing time from work within 45 days of the injury.

Continuation of Pay - Eligibility

The employer **must** continue the pay of an employee who is eligible for COP, and may not require the employee to use his or her own sick or annual leave in almost all circumstances. However, while continuing the employee's pay, the employer may controvert the employee's COP entitlement pending a final determination by OWCP. **OWCP has the exclusive authority to determine questions of entitlement and all other issues relating to COP**

Nine Reasons for Controverting COP

- Agency may controvert COP **only** if one of the following applies:
 - Disability is a result of occupational disease or illness
 - Claimant's status as an employee is defined by 5 USC 8101 (1) (B) or (E) (volunteers)
 - Employee is neither a citizen nor resident of the US or Canada
 - Injury occurred off the agency's premises and the employee was not engaged in official "off premises" duties

Nine Reasons for Controverting COP - continued

- Employee's willful misconduct, intentional harm or death, or proximate intoxication
- Injury not reported on a form approved by OWCP within 30 days following the injury
- Work stoppage first occurred more than 45 days after the injury
- Employee reported injury after employment was terminated
- Employee is enrolled in Civil Air Patrol, Peace Corps, or other group covered by special legislation

Terminating COP

- Employee returns to work with no loss of pay
- Employee's period of employment expires
- OWCP directs the employer to stop
- COP has been paid for 45 days

Calculating COP

- The pay rate for COP purposes is equal to the employee's regular weekly pay rate
- Excludes overtime pay, but includes other applicable extra pay except to the extent prohibited by law
- Changes in pay which would have otherwise occurred during the 45 day period are to be reflected. (i.e., promotion, demotion, step increases)

Occupational Disease- Form CA-2

- Condition attributable to exposure to work factors over a period longer than one work day or shift.
- COP is not provided.
- CA-16 is not issued.



CA-2

- Must be submitted to employing agency within 3 years from when the employee becomes aware, or reasonably should have been aware, of a possible relationship between the medical condition and the employment, or the date of last exposure.
- Must be transmitted to OWCP within 10 work days from the date the agency received notice.

DO NOT HOLD!

CA-2 Adjudication

- OWCP tries to adjudicate occupational disease claims within
 - 90 days for simple OD (CTS, orthopedic conditions, etc)
 - 180 days for extended OD (stress, pulmonary conditions, etc)

Death Benefits – Apportionment

Beneficiary	On or After 9/7/74
Widow/Widower Only	50%
Widow(er) w/ One Child	45% 15%
Widow(er) w/ 2 or More Children	45% 30%
One Child Only	40%
Two Children Only	40% + 15% (Share Alike)
Three Children Only	40% + 15% + 15% (Share Alike)
Four or More Children Only	75% (Share Alike)

Medical Benefits - Treatment

- OWCP authorizes medical services, appliances or supplies “likely to cure, give relief, reduce the degree or period of disability, or aid in lessening the amount of the monthly compensation.” (5 USC 8103).
- Any qualified physician or hospital may provide such services, appliances and supplies.

Medical – CA-16

- Shall be issued within 4 hours of the claimed injury.
- If verbal authorization is given, must be issued within 48 hours.
- Not required to issue more than one week after the date of injury.
- Should not be issued for Occupational Disease claims (CA-2)

Wage Loss

- CA-7
- Computation
- Deductions
- Leave Buy Back
- Termination of

Form CA-7, Claim for Compensation

- Used to claim compensation for wage loss while in LWOP due to disability or absence to obtain medical treatment (after COP period for TI cases)
- Also used to claim leave buy back, schedule award or lost pay elements

Form CA-7 Adjudication

- Agency should submit the completed CA-7 form to OWCP within 5 work days of receipt from the employee
- OWCP tries to review wage loss claims within 5 days of receipt and take action to develop or pay within 14 days of receipt from the employing agency.

Wage Loss - Computation

- Pay rate for compensation is based upon:
 - Date of injury;
 - Date that disability began; or
 - Date of recurrence, when disability recurs at least 6 months after return to regular full time employment

WHICHEVER IS GREATER

Wage Loss - Computation

- OWCP calculates a weekly pay rate for payment of compensation, based on information provided by the employing agency
- For payment of death benefits, a monthly pay rate is calculated

Wage Loss - Computation

- Elements included in pay:
 - The employee's full salary or full cash wage;
 - Night or shift differential;
 - Extra compensation/premium pay for Sunday or holiday work;
 - Administratively uncontrolled overtime;
 - Extra pay received by immigration and customs inspectors;
 - Availability pay for criminal investigators;
 - Heavy duty pay for rural carriers;
 - Quarters allowance for overseas personnel;
 - Dirty work pay;
 - Hazard pay;
 - Locality pay and COLA; and
 - Remote worksite allowance

Wage Loss - Computation

- Elements excluded from pay:
 - Overtime pay;
 - Locality/COLA pay for employees outside the US;
 - Bonus or premium pay for extraordinary service;
 - Per diem while in travel status;
 - Allowance for use of personal vehicle; and
 - Unemployment compensation

Wage Loss - Computation

- Determining Pay Rate
 - The basic rate is 66 2/3%, which is increased to 75% if there is at least one eligible dependent.
- Period of Entitlement
 - Waiting days: If the employee is disabled for 14 days or less (after the end of the COP period in traumatic injury cases), compensation is not payable for the first three calendar days of disability.

Wage Loss – Deductions

- OWCP is responsible for FEHB deductions while the claimant receives wage loss compensation.
 - As of September 2010, OWCP deducts premiums from the first day of wage loss. The “agency share” of the premiums is paid by OWCP.
 - If disability lasts more than 90 days and is expected to continue, OWCP transfers-in the enrollment.
 - OWCP, *not* the employing agency, is responsible for Open Season changes. The Open Season effective date for OWCP claimants is the first full 28-day pay period in the new year.
 - “Postal Rate” for USPS employees during the first year of compensation benefits.

Wage Loss – Deductions

- Other deductions from compensation:
 - FEGLI premiums are deducted as of the first day of wage loss.
 - Dental/Vision (FEDVIP) deductions are sent to OWCP by BENEFEDS.
 - Spousal and Child Support payments.

Wage Loss – Deductions

- Pay elements *NOT* deducted by OWCP:
 - Long Term Care (FLTCIP)
 - Flexible Spending Accounts (FSA)
 - Thrift Savings (TSP)
 - Taxes: OWCP benefits are “tax free” by law so federal/state taxes are not deducted, nor are Social Security taxes.

Wage Loss – Leave Buy Back

- When an employee elects to use annual or sick leave during the period of disability, he or she may later, with the concurrence of the employing agency, claim compensation for the period of disability and “buy back” the leave used.

Wage Loss – COLA

- An injured employee is eligible for cost-of-living adjustments where injury related disability began more than one year prior to the date the cost-of-living adjustment took effect.
 - Each year, on March 1, the increase in the cost-of-living for the preceding calendar year is determined. If the injured employee has been entitled to compensation for at least one year before March 1, a cost-of-living increase is applied to the benefits.

Wage Loss – Termination of

- Once OWCP accepts a claim, it has the burden of justifying termination of compensation benefits.
 - If compensation benefits are terminated, the right to medical benefits is not necessarily effected.
 - Entitlement to FEHB and life insurance ends with the termination of compensation benefits.

Wage Loss – Termination of

- Fraud Conviction
- Refusal/Abandonment of Suitable Employment
- No continuing injury related disability
- Zero loss of wage earning capacity (actual or constructed)

Schedule Award

- Compensation is provided for specified periods of time for the permanent loss or loss of use of certain members, organs, and functions of the body.
 - Such loss or loss of use is known as permanent impairment.
 - Skin was added as a scheduled member in the regulations finalized 8/29/12
 - The law does not allow for payment of a schedule award for impairment to the back, heart or brain.
 - However, a back injury may result in impairment to an appendage, which would be eligible for a Schedule Award

Schedule Award

Arm	312	Loss of Hearing (S)	52
Leg	288	Loss of Hearing (B)	200
Hand	244	Breast	42
Foot	205	Kidney	156
Eye	160	Larynx	160
Thumb	75	Lung	156
First Finger	46	Penis	205
Great Toe	38	Testicle	52
Second Finger	30	Tongue	160
Third Finger	25	Ovary/Fallopian Tube	52
Toe	16	Uterus/Cervix/Vulva/Vagina	205
Fourth Finger	15	Skin	205

Dual Benefits

- ***Annuity Benefits Paid by OPM***
 - ***Death Benefits***
 - ***Lump Sum Payment***
- Veteran's Disability
 - VA Death Benefits
- Social Security Act Benefits
- Tennessee Valley Authority
- Black Lung Benefits
- Railroad Retirement Act Benefits
- Department of Justice Benefits for Survivors of Federal Law Enforcement Officers
- Benefits for Judicial Officials Assassinated in Performance of Duty
- Severance and Separation Pay

Elections between OWCP and OPM

- If entitled to both FECA disability compensation and OPM retirement benefits, employee must make an election which is *not* irrevocable.
- OWCP benefits tend to pay more than OPM. However, if FECA is elected, employee is subject to OWCP rules regarding obligation to return to work.
- May receive schedule award concurrently.

Return to Work Employer's Responsibilities

- OPM restoration rights:
 - Recovery within a year: right to be restored to the job held when injured, or equivalent. Such an employee is expected to apply for reemployment with his or her agency immediately upon recovery.
 - If more than one year to recover, the agency has the right to separate the employee. The claimant remains entitled to priority consideration, provided he or she applies for reemployment within 30 days after compensation ends.
- If alternative positions are available for partially disabled employees, advise the employee in writing of specific duties and physical demands.
- Where no alternative positions are available, advise the employee of any accommodations the agency can make.

Return to Work

Acceptable Reasons for Refusal

- The position is withdrawn.
- The claimant found other work which fairly and reasonably represents his/her earning capacity.
- Medical evidence establishes that the condition has worsened and the claimant is unable to perform the duties.
- Attending physician advises employee not to accept (this will be further developed by OWCP through IMEs).
- Claimant is unable to travel to the job because of the injury.
- Medical condition has arisen since the compensable injury and prevents the claimant from working.

Return to Work

Unacceptable Reasons for Refusal

- Preference for the area in which he or she currently resides.
- Dislike of the position offered or work hours
- Lack of promotion potential.
- Lack of job security.
- Retirement
- Age

Return to Work Vocational Rehabilitation

VocRehab services are offered at the discretion of OWCP but may include:

- Medical rehabilitation (FCE, work hardening)
- Placement with the previous employer
- Training
- Placement with a new employer

Loss of Wage Earning Capacity

- Section 8106 of the FECA provides for a reduction in compensation to reflect a loss of wage earning capacity (LWEC) when the disability for work is partial.
 - If disability is partial, OWCP will pay 66 2/3% or 75% of the difference between the current pay for the job held when injured and the current pay for the job which represents the claimant's capacity to earn wages

Appeal Rights

- Hearing
- Reconsideration
- Employees' Compensation Appeals Board

DFEC Homepage

- <http://www.dol.gov/owcp/dfec/>
- Bookmark this page!
- Agency contacts should register for the new automated listserv:
<http://www.dol.gov/owcp/dfec/federalagency.htm>
(see sign up link on Federal Agency page)

AQS – Agency Query System

- Authorized users may select from a number of query options reflecting data for injured worker cases on file.
 - If not authorized, contact your agency coordinator

AQS – Agency Query System

IW Case Query:

Displays detailed information on cases for injured workers from your agency. Includes demographic data, up-to-date case status information, and links to case related Compensation and Bill Payment History data.

- Compensation Payment History (complete payment history for the case you are querying)
- Compensation Tracking (compensation period covered, date claim received, date keyed into the payment system, decision code and date)



Employees' Compensation Operations and Management Portal (ECOMP)

E-COMP Overview

E-COMP is a web-based application accessible via the DOL public internet site, which is intended to allow injured federal workers and their employers to:

1. Electronically file OSHA 301s, CA-1s, CA-2s, CA-7s and CA-6s;
2. Track the exact status of any form or document submitted via E-COMP (e.g., Pending Supervisor Approval, with Agency Reviewer, Received by OWCP, etc.)
3. Electronically upload and submit documents to DFEC's case files; and
4. Serve as a single portal for DFEC stakeholders.

E-COMP Overview

The E-COMP home page features many user-friendly options, to include:

- Access to file a form or upload a document to an existing case
- Log-in access for Agency Reviewers and OSHA Record Keepers
- Option to track the status of a form or document
- Links to helpful tutorials and how-to guides for new users

WEEDS

The Web-Enabled Electronic Document Submission (WEEDS) function in ECOMP was deployed in November 2011 and any person can upload a document to an existing claim form if they have 4 pieces of information: Claim number, date of injury, claimant last name, claimant date of birth.

ECOMP Filing Process

- Fed employee or contractor files OSHA 301 to report injury/illness
 - Form routed to supervisor
 - Form routed to OSHA Record Keeper
- Fed employee may then file CA-1 or CA-2 or CA-7 to claim FECA benefits
 - Form routed to supervisor
 - Form routed to Agency Reviewer
 - Form submitted to OWCP
- AR or ORK may also initiate forms on behalf of employees

Agency Reviewer Imaging Overview

E-COMP, the web-based DOL application used for document uploads and forms filing, now allows designated Agency Reviewers (ARs) the ability to access images in DFEC cases.

- Case Review access is granted to agencies using ECOMP to file workers compensation forms (CA1/2 or CA-7).
- ARs with imaging privileges will only be able to access cases over which they have jurisdiction.
- Documents within the cases saved as an encrypted PDF image and printed.
- AR users may set email reminders in a case through ECOMP.

ARi Access and Restrictions

AR Imaging (ARi) users:

- May access only cases assigned to a chargeback to which the ARi is assigned in the Agency Structure.
- Must have four pieces of information to access a case including case number, last name, date of birth, and date of injury.
- May download up to 5 cases to their Review Cases Dashboard.
- Have access to a case for up 5 calendar days.
- May release a downloaded case at any time to free-up a slot on their Dashboard.
- Will only see documents available at the point the case is requested. There is no refresh option.
- Download case documents that include all documents received in the last three years. Additionally, users are granted access to all documents indexed by a Claims Examiner as “Outgoing,” “Decisions,” Or “Forms.”

ARi Access and Restrictions

AR Imaging (ARi) users:

- Can release and re-request a case to refresh the document list; however, users cannot request the same case more than one time every 48 hours.
- May select all or part of the documents in a case for download and printing via a secure PDF document. This document is encrypted using digital rights management and is accessible only to the person who created the document.
- May set reminders for any case. If the user has set reminders for a case downloaded to the Dashboard for review, those reminders will be shown on the case header.

ARi Access and Restrictions

- E-COMP case review and document copying/printing is granted under the routine uses provided by DOL/GOVT-1.
- DOL/GOVT-1 provides that federal agencies that employed the claimant at the time of the occurrence or recurrence of the injury or occupational illness can access OWCP case file information in order to verify billing, to assist in administering the FECA, to answer questions about the status of the claim, to consider rehire, retention or other actions the agency may be required to take with regard to the claim or to permit the agency to evaluate its safety and health program.
- For more information, visit:

<http://www.dol.gov/sol/privacy/dol-govt-1.htm>

E-COMP

<https://www.ecomp.dol.gov>

WEEDS available to all – form filing available to enrolled agencies. Training materials can be viewed by all and provide an idea of how the system works.

Thank You

Department of Labor
OWCP-DFEC

Presented By: Jay Mariani
Tara Jones